

Entered - 02/23/99 - sb  
CL99L0111 - DIANNE C. MITCHELL

CLAIM OF: DECKER AND HALLMAN, P.C.  
Suite 4300  
285 Peachtree Street  
Atlanta, Georgia 30308

For damages alleged to have been sustained as a result of the collection of occupational taxes and license fees by the City in 1996, 1997 and 1998.

THIS ADVERSED REPORT IS APPROVED

BY: Rosalind Rubens Newell by RWG/SCA  
ROSALIND RUBENS NEWELL  
DEPUTY CITY ATTORNEY

## DEPARTMENT OF LAW - CLAIM INVESTIGATION SUMMARY

Claim No. 99L0111

Date: November 15, 2000

Claimant /Victim HALLMAN AND DECKER, P.C.  
BY: (Atty) Robert Feagin and Irwin Stolz, Jr.  
Address: Suite 1200, 285 Peachtree Center Avenue, Atlanta, Georgia 30303  
Subrogation: Claim for Property damage \$ 32,400.00 Bodily Injury \$             
Date of Notice: 02/18/99 Method: Written, proper X Improper             
Conforms to Notice: O.C.G.A. §36-33-5 X Ante Litem (6 Mo.) X  
Date of Occurrence 1996, 1997 & 1998 Place: 55 Trinity Avenue  
Department Finance Division:             
Employee involved            Disciplinary Action:           

NATURE OF CLAIM: The claimants demand reimbursement for occupational taxes and license fees paid to the City that they contend was erroneous and illegal. The claimants have filed a lawsuit to resolve the issues raised in their claim.

### INVESTIGATION:

Statements: City employee            Claimant            Others            Written            Oral             
Pictures            Diagrams            Reports: Police            Dept Report            Other             
Traffic citations issued: City Driver            Claimant Driver             
Citation disposition: City Driver            Claimant Driver           

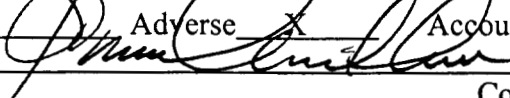
### BASIS OF RECOMMENDATION:

Function: Governmental X Ministerial             
Improper Notice            More than Six Months            Other X Damages reasonable             
City not involved            Offer rejected            Compromise settlement             
Repair/replacement by Ins. Co.            Repair/replacement by City Forces             
Claimant Negligent            City Negligent            Joint            Claim Abandoned           

Respectfully submitted,

  
INVESTIGATOR - DIANNE C. MITCHELL

### RECOMMENDATION:

Pay \$            Adverse X Account charged: 1A01            2J01            2H01             
Claims Manager:  Concur/date 11-15-00  
Committee Action:            Council Action           

FORM 23-61

Robert D. Feagin, Esq.  
Of Counsel: Decker & Hallman, P.C.  
Suite 1200 Marquis II Tower  
285 Peachtree Center Avenue  
Atlanta, Georgia 30303  
(404) 522-1500 - office  
(404) 577-9149 - facsimile

02-18-99 09:13 OUT

ENTERED - 2-23-99 - SB  
99L0111 - DIANNE MITCHELL

February 16, 1999

Irwin W. Stolz, Jr., Esq.  
Gambrell & Stolz, L.L.P.  
Suntrust Plaza, Suite 4300  
303 Peachtree Street  
Atlanta, Georgia 30308  
(404) 577-6000 - office  
(404) 221-6501 - facsimile

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Council of the City of Atlanta  
Municipal Clerk  
City Hall  
55 Trinity Avenue, S.W.  
Atlanta, Georgia 30335

Re: Claim for Tax Refunds, 1998, 1997 & 1996

Dear Municipal Clerk:

This is to notify the City of Atlanta that erroneous and illegal collections of taxes and license fees has been made by the City of Atlanta and that certain taxpayers have voluntarily or involuntarily overpaid taxes and license fees in the form of a \$400 annual professional license fee and such taxpayers hereby file this claim for refunds with the governing authority of the municipality within three years after the date of such payments to the City of Atlanta. This claim for refund is made under and in compliance with the provisions of O.C.G.A. § 48-5-380.

The summary of the statement of the grounds upon which the taxpayers rely is as follows:

The Atlanta Occupational Tax on professionals as applied to attorneys is illegal in that the City thereby illegally charges attorneys \$400.00 annual occupational tax when such a City occupational tax cannot be applied to lawyers under the decision of the Supreme Court in Sexton v. Jonesboro, 267 Ga. 571, 481 S.E.2d 818 (1997). In that ruling, the City

was prohibited from maintaining such a tax since same was an unconstitutional encroachment on the Supreme Court's power to regulate lawyers and the practice of law.

The City of Atlanta Ordinance, Article III Occupational Tax, Section 30-51 - Section 30-63, is improper and infirmed under the foregoing ruling. Further, the occupational tax violates the taxpayers' equal protection of the laws of the State of Georgia and the United States.

The undersigned attorneys practice in the City of Atlanta and have been billed for and have paid the foregoing tax under Article III, Section 30-53 of the City Ordinances of the City of Atlanta and each hereby claims a refund in respect to their respective payments of such for the reporting periods 1998, 1997, and 1996.

Taxpayers desire a conference or hearing before the governing authority in connection with these claims for refund and so specifies in this refund claim.

Wherefore, taxpayers/claimants respectfully request the governing authority to approve these taxpayers claims and to notify the taxpayers/claimants of its action.

**Taxpayer**

**Amount of Refund Claim**

With the firm of:

Decker & Hallman, P.C.  
Suite 1200 Marquis II Tower  
285 Peachtree Center Avenue  
Atlanta, Georgia 30303

Richard P. Decker, Esq.  
Georgia Bar No. 215600

\$ 1,200.00

Robert D. Feagin, Esq.  
Georgia Bar No. 256900

\$ 1,200.00

F. Edwin Hallman, Jr., Esq.  
Georgia Bar No. 319800

\$ 1,200.00

With the firm of:

Gambrell & Stolz, L.L.P.  
Suntrust Plaza, Suite 4300  
303 Peachtree Street  
Atlanta, Georgia 30308

**Amount of Refund Claim**

Gary A. Barnes, Esq. Georgia Bar No. 038575	\$ 1,200.00
George M. Bobo, Esq. Georgia Bar No. 065100	\$ 1,200.00
Robert G. Brazier, Esq. Georgia Bar No. 078938	\$ 1,200.00
Bryan M. Cavan, Esq. Georgia Bar No. 117600	\$ 1,200.00
Jennifer G. Cooper, Esq. Georgia Bar No. 305255	\$ 1,200.00
Allison P. Coplein, Esq. Georgia Bar No. 187090	\$ 1,200.00
Robert E. DeWitt, Esq. Georgia Bar No. 220306	\$ 1,200.00
Leo J. Fogarty, Esq. Georgia Bar No. 259957	\$ 1,200.00
David H. Gambrell, Esq. Georgia Bar No. 283300	\$ 1,200.00
Nancy E. Gordon, Esq. Georgia Bar No. 302381	\$ 1,200.00

**Amount of Refund Claim**

David S. Gruskin, Esq. Georgia Bar No. 314620	\$ 1,200.00
Nedom A. Haley, Esq. Georgia Bar No. 317900	\$ 1,200.00
Michelle M. Kenyon, Esq. Georgia Bar No. 415650	\$1,200.00
Linda A. Klein, Esq. Georgia Bar No. 425069	\$ 1,200.00
Henry B. Levi, Esq. Georgia Bar No. 448050	\$ 1,200.00
James R. McGuone, Esq. Georgia Bar No. 493450	\$ 1,200.00
Vipanj B. Patel, Esq. Georgia Bar No. 565900	\$ 1,200.00
Andrew H. Prussack, Esq. Georgia Bar No. 589090	\$ 1,200.00
Seaton D. Purdom, Esq. Georgia Bar No. 589987	\$ 1,200.00
Adam L. Smith, Esq. Georgia Bar No. 653199	\$ 1,200.00
Michael M. Smith, Esq. Georgia Bar No. 661695	\$ 1,200.00
Irwin W. Stolz, Jr., Esq. Georgia Bar No. 683700	\$ 1,200.00

Council of the City of Atlanta  
February 16, 1999  
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**Amount of Refund Claim**

Christopher R. Stovall, Esq.  
Georgia Bar No. 621780

\$ 1,200.00

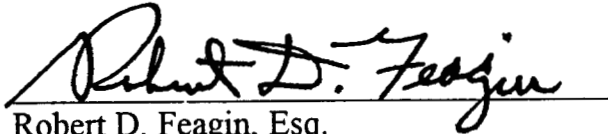
Tobin N. Watt, Esq.  
Georgia Bar No. 741900

\$ 1,200.00

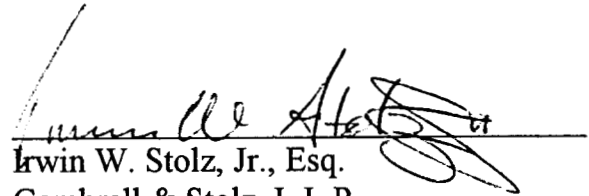
**TOTAL REFUND CLAIMED**

**\$32,400.00**

Sincerely,



Robert D. Feagin, Esq.  
Of Counsel: Decker & Hallman, P.C.  
Suite 1200 Marquis II Tower  
285 Peachtree Center Avenue  
Atlanta, Georgia 30303  
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Attorneys for Taxpayers/Claimants

RDF:rbv

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